



1 motion for a new trial. This supplemental memorandum raised several arguments,  
2 including a claim that 18 U.S.C. 922(g)(3)(the federal statute which criminalizes being an  
3 addict of unlawful drug user in possession of a firearm) is unconstitutional.

4 2. The defendant's supplemental memorandum also raises issues regarding the  
5 sufficiency of the evidence presented at trial which will require government counsel to re-  
6 view the trial transcript. In the process of conducting this review, undersigned  
7 government counsel determined that the government was missing a volume of the trial  
8 transcript which included approximately 190 pages of the government's case-in-chief.  
9 Government counsel only received a copy of this transcript for the first time yesterday.

10 3. In light of the above, the government respectfully requests an additional week  
11 beyond the current September 19, 2008 due date to prepare its response to the defendant's  
12 supplemental memorandum. Defense counsel do not object to this proposed schedule  
13 modification as long as they receive calendar 10 days to file a reply to the government's  
14 opposition to the defendant's supplemental memorandum. It is the parties' understanding  
15 that the Court is available on October 14, 2008.

16 In light of the above, the parties agree, and the Court finds and holds, as follows:

17 1. The government's opposition to the defendant's supplemental memorandum in  
18 support of defendant's motion for a new trial is due on Friday, September 26, 2008.

19 2. The defense's reply brief in support of its supplemental memorandum/motion  
20 for new trial is due on Monday, October 6, 2008.

21 3. The hearing on defendant's various new trial motions is to be held on Tuesday,  
22 October 14, 2008 at 9:00 a.m.

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1 4. The currently scheduled sentencing date of November 3, 2008 at 9:00 a.m. shall  
2 remain in effect.

3 SO STIPULATED:

4 DATED: 9/17/08

/s/  
DONALD M. HORGAN  
Defense Counsel

7 DATED: 9/17/08

/s/  
JOSEPH A. FAZIOLI  
Assistant United States Attorney

9 IT IS SO ORDERED.

10 DATED: 9/24/08

*Ronald M. Whyte*  
RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE